

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 669** Session of
2005

INTRODUCED BY COSTA, GREENLEAF, STOUT, TOMLINSON, EARLL, ORIE,
RAFFERTY, STACK, O'PAKE, LOGAN, PIPPY, MUSTO, C. WILLIAMS,
WONDERLING, TARTAGLIONE, KASUNIC, LAVALLE, PILEGGI AND
KITCHEN, MAY 9, 2005

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 10, 2005

AN ACT

1 Amending Titles 2 (Administrative Law and Procedure) and 42
2 (Judiciary and Judicial Procedure) of the Pennsylvania
3 Consolidated Statutes, providing for court and administrative
4 proceeding interpreters; and repealing related provisions.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 101 of Title 2 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 101. Definitions.

10 Subject to additional definitions contained in subsequent
11 provisions of this title which are applicable to specific
12 provisions of this title, the following words and phrases when
13 used in this title shall have, unless the context clearly
14 indicates otherwise, the meanings given to them in this section:

15 "Adjudication." Any final order, decree, decision,
16 determination or ruling by an agency affecting personal or
17 property rights, privileges, immunities, duties, liabilities or
18 obligations of any or all of the parties to the proceeding in

1 which the adjudication is made. The term does not include any
2 order based upon a proceeding before a court or which involves
3 the seizure or forfeiture of property, paroles, pardons or
4 releases from mental institutions.

5 "Administrative law judge." An individual appointed by an
6 agency to preside at an administrative proceeding.

7 "Administrative proceeding." Any proceeding other than a
8 judicial proceeding, the outcome of which is required to be
9 based on a record or documentation prescribed by law or in which
10 law or regulation is particularized in application to
11 individuals. The term includes an appeal.

12 "Agency." A government agency.

13 "Appeal." Includes proceedings on petition for review.

14 "Certified interpreter." A person who:

15 (1) is readily able to interpret; and

16 (2) is certified by the Department of Labor and Industry
17 in accordance with Subchapter C (relating to administrative
18 proceeding interpreters for persons with limited English
19 proficiency) or D (relating to administrative proceeding
20 interpreters for persons who are deaf) of Chapter 5.

21 "Commonwealth agency." Any executive agency or independent
22 agency.

23 "Commonwealth government." The government of the
24 Commonwealth, including the courts and other officers or
25 agencies of the unified judicial system, the General Assembly,
26 and its officers and agencies, the Governor, and the
27 departments, boards, commissions, authorities and officers and
28 agencies of the Commonwealth, but the term does not include any
29 political subdivision, municipal or other local authority, or
30 any officer or agency of any such political subdivision or local

1 authority.

2 "Court Administrator of Pennsylvania." The court
3 administrator appointed by the Supreme Court under section 10(b)
4 of Article V of the Constitution of Pennsylvania and 42 Pa.C.S.
5 § 1901 (relating to Court Administrator of Pennsylvania).

6 "Deaf." An impairment of hearing or speech which creates an
7 inability to understand or communicate the spoken English
8 language.

9 "Department." The Department of Labor and Industry of the
10 Commonwealth.

11 "Executive agency." The Governor and the departments,
12 boards, commissions, authorities and other officers and agencies
13 of the Commonwealth government, but the term does not include
14 any court or other officer or agency of the unified judicial
15 system, the General Assembly and its officers and agencies, or
16 any independent agency.

17 "General rule." As defined in 42 Pa.C.S. § 102 (relating to
18 definitions).

19 "Government agency." Any Commonwealth agency or any
20 political subdivision or municipal or other local authority, or
21 any officer or agency of any such political subdivision or local
22 authority.

23 "Government unit." The General Assembly and its officers and
24 agencies, any government agency or any court or other officer or
25 agency of the unified judicial system.

26 "Independent agency." Boards, commissions, authorities and
27 other agencies and officers of the Commonwealth government which
28 are not subject to the policy supervision and control of the
29 Governor, but the term does not include any court or other
30 officer or agency of the unified judicial system or the General

1 Assembly and its officers and agencies.

2 "Interpret." Either one of the following:

3 (1) For purposes of Subchapter C of Chapter 5 (relating
4 to administrative proceeding interpreters for persons with
5 limited English proficiency), to convey spoken and written
6 English into the language of the person with limited English
7 proficiency and to convey oral and written statements by the
8 person into English.

9 (2) For purposes of Subchapter D of Chapter 5 (relating
10 to administrative proceeding interpreters for persons who are
11 deaf), to convey spoken English in a manner understood by the
12 person who is deaf and to convey statements made by the
13 person who is deaf into English through, but not limited to,
14 American Sign Language and transliteration or the use of
15 Computer Aided Real Time Captioning (CART) or similar
16 procedure.

17 "Interpreter." Includes both a certified interpreter and an
18 otherwise qualified interpreter.

19 "Judicial proceeding." An "action," "appeal" or "proceeding"
20 in any "court" of this Commonwealth as those terms are defined
21 in 42 Pa.C.S. § 102 (relating to definitions).

22 "Limited ability to speak or understand English." The
23 ability to speak exclusively or primarily a language other than
24 English and the inability to sufficiently speak or understand
25 English.

26 "Local agency." A government agency other than a
27 Commonwealth agency.

28 "Matter." Action, proceeding or appeal.

29 "Otherwise qualified interpreter." A person who:

30 (1) For purposes of Subchapter C of Chapter 5 (relating

1 to administrative proceeding interpreters for persons with
2 limited English proficiency):

3 (i) is readily able to interpret; and

4 (ii) has read, understands and agrees to abide by
5 the code of professional conduct for administrative
6 proceeding interpreters for persons with limited English
7 proficiency as established by the Department of Labor and
8 Industry in accordance with Subchapter C of Chapter 5.

9 (2) For purposes of Subchapter D of Chapter 5 (relating
10 to administrative proceeding interpreters for persons who are
11 deaf):

12 (i) is readily able to interpret;

13 (ii) is certified by the National Association of the
14 Deaf, the Registry of Interpreters for the Deaf or
15 similar registry; and

16 (iii) has read, understands and agrees to abide by
17 the code of professional conduct for administrative
18 proceeding interpreters for persons who are deaf as
19 established by the Department of Labor and Industry in
20 accordance with Subchapter D of Chapter 5.

21 "Party." Any person who appears in a proceeding before an
22 agency who has a direct interest in the subject matter of such
23 proceeding.

24 "Person." Includes a government unit or an agency of the
25 Federal Government.

26 "Person who is deaf." A party or witness who is deaf.

27 "Person with limited English proficiency." A party or a
28 witness who has limited ability to speak or understand English.

29 "Transliteration." To convey spoken or written English in an
30 English-based sign system and the process of conveying an

1 English-based sign system in spoken or written English.

2 "Witness." A person who testifies in a proceeding before an
3 agency.

4 Section 2. Section 505.1 of Title 2 is repealed.

5 Section 3. Chapter 5 of Title 2 is amended by adding
6 subchapters to read:

7 SUBCHAPTER C

8 ADMINISTRATIVE PROCEEDING INTERPRETERS

9 FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

10 Sec.

11 561. Scope of subchapter.

12 562. Duties of department.

13 563. Appointment of interpreter.

14 564. Replacement of interpreter.

15 565. Oath.

16 566. Confidential communications in presence of interpreter.

17 567. Cost of providing interpreter.

18 568. Funding.

19 § 561. Scope of subchapter.

20 (a) Commonwealth agencies.--Except as provided in subsection

21 (b), this subchapter applies to all Commonwealth agencies.

22 (b) Exception.--This subchapter does not apply to:

23 (1) Proceedings before the Department of Revenue, the
24 Department of the Auditor General or the Board of Finance and
25 Revenue involving the original settlement, assessment or
26 determination or resettlement, reassessment or
27 redetermination, review or refund of taxes, interest or
28 payments made into the State Treasury.

29 (2) Proceedings before the Secretary of the Commonwealth
30 under the act of June 3, 1937 (P.L.1333, No.320), known as

1 the Pennsylvania Election Code.

2 (3) Proceedings before the Department of Transportation
3 involving matters reviewable under 42 Pa.C.S. § 933 (relating
4 to appeals from government agencies).

5 (4) Proceedings before the State System of Higher
6 Education involving student discipline.

7 (c) Local agencies.--This subchapter applies to all local
8 agencies.

9 § 562. Duties of department.

10 (a) Interpreter program.--The department shall establish a
11 program to appoint and use certified interpreters in
12 administrative proceedings that is consistent with the program
13 established by the Administrative Office of Pennsylvania Courts
14 pursuant to 42 Pa.C.S. Ch. 44 (relating to court interpreters).
15 To certify interpreters, the department shall establish a
16 program which may include:

17 (1) establishing and administering a comprehensive
18 testing and certification program for interpreters;

19 (2) establishing and adopting standards of proficiency,
20 written and oral, in English and the language to be
21 interpreted, including, but not limited to, certification by
22 the Court Administrator of Pennsylvania as provided in 42
23 Pa.C.S. Ch. 44;

24 (3) conducting periodic examinations to ensure the
25 availability of certified interpreters;

26 (4) prescribing, determining and certifying the
27 qualifications of persons who may serve as certified
28 interpreters for persons with limited English proficiency;

29 (5) charging reasonable fees, as deemed necessary, for
30 testing and certification;

1 (6) reciprocity of certification for interpreters from
2 other jurisdictions provided that in the judgment of the
3 ~~Court Administrator of Pennsylvania~~ DEPARTMENT, the criteria <—
4 for certification in the foreign jurisdiction is at least as
5 stringent as that established by THE DEPARTMENT OR the Court <—
6 Administrator of Pennsylvania;

7 (7) providing for the audio recording of testimony that
8 is the subject of interpretation; and

9 (8) providing a continuing education requirement for
10 interpreters.

11 (b) List of certified interpreters.--The department shall
12 compile, maintain and disseminate a current list of interpreters
13 certified by the department to the agencies through any means
14 deemed appropriate by the department, including, but not limited
15 to, a written directory and publication on the official World
16 Wide Web site of the department.

17 (c) Guidelines for selection of otherwise qualified
18 interpreters.--The department shall provide guidelines to the
19 agencies for the selection and use of otherwise qualified
20 interpreters in order to ensure that the highest standards of
21 accuracy are maintained in all administrative proceedings
22 subject to this subchapter.

23 (d) Fee schedule.--The department shall prescribe, subject
24 to periodic review, a schedule of reasonable fees for services
25 rendered by certified interpreters and otherwise qualified
26 interpreters.

27 (e) Standards of professional conduct.--

28 (1) The department shall establish and adopt standards
29 for a code of professional conduct for administrative
30 proceeding interpreters for persons with limited English

1 proficiency.

2 (2) The department shall establish, administer or
3 recommend a process to review and respond to allegations of
4 violations of the code of professional conduct for
5 administrative proceeding interpreters for persons with
6 limited English proficiency, including, but not limited to,
7 decertification and other disciplinary measures.

8 (f) Certification by courts.--Any interpreter certified by
9 the Administrative Office of Pennsylvania Courts pursuant to 42
10 Pa.C.S. Ch. 44 shall be deemed certified pursuant to this
11 chapter.

12 § 563. Appointment of interpreter.

13 (a) Appointment of certified interpreter.--Upon request, an
14 administrative law judge shall appoint a certified interpreter,
15 unless a certified interpreter is unavailable as provided in
16 subsection (b).

17 (b) Appointment of otherwise qualified interpreter when
18 certified interpreter is unavailable.--

19 (1) An otherwise qualified interpreter shall be
20 appointed by the administrative law judge if a good faith
21 effort was made to obtain a certified interpreter and a
22 certified interpreter was not reasonably available, as
23 determined by the administrative law judge.

24 (2) Prior to the appointment of an otherwise qualified
25 interpreter, the administrative law judge shall state on the
26 record that the otherwise qualified interpreter:

27 (i) is readily able to interpret; and

28 (ii) has read, understands and agrees to abide by
29 the code of professional conduct for administrative
30 proceeding interpreters for persons with limited English

1 proficiency, as established by the department.

2 (c) Additional interpreters.--After consideration of the
3 length of the administrative proceeding and the number of
4 persons with limited English proficiency involved, an
5 administrative law judge may appoint, as provided in subsections
6 (a) and (b), an additional interpreter or provide for additional
7 interpretation in a manner deemed appropriate by the
8 administrative law judge.

9 § 564. Replacement of interpreter.

10 An administrative law judge shall dismiss the interpreter and
11 obtain the services of another interpreter in accordance with
12 this subchapter, if the interpreter:

13 (1) Fails to follow the standards prescribed by law or
14 by the code of professional conduct for administrative
15 proceeding interpreters for persons with limited English
16 proficiency.

17 (2) Is unable to effectively communicate with the
18 administrative law judge or the person with limited English
19 proficiency, including where the interpreter self-reports
20 such inability.

21 § 565. Oath.

22 Before the commencement of interpreter duties, an interpreter
23 appointed under this subchapter shall take an oath or make an
24 affirmation on the record that the interpreter will make a true
25 interpretation to the person with limited English proficiency in
26 the language which the person with limited English proficiency
27 understands and that the interpreter will repeat the statements
28 of the person with limited English proficiency to the court in
29 English to the best of the interpreter's skill and judgment and
30 in accordance with the code of professional conduct for

1 administrative proceeding interpreters for persons with limited
2 English proficiency.

3 § 566. Confidential communications in presence of interpreter.

4 An interpreter appointed under this subchapter may not be
5 compelled to testify, in any judicial proceeding or
6 administrative proceeding, to statements made by the person with
7 limited English proficiency and interpreted by the interpreter
8 when the person with limited English proficiency is engaged in a
9 confidential communication as provided by any statute or general
10 rule, including, but not limited to:

11 (1) 42 Pa.C.S. § 5916 (relating to confidential
12 communications to attorney).

13 (2) 42 Pa.C.S. § 5928 (relating to confidential
14 communications to attorney).

15 (3) 42 Pa.C.S. § 5942 (relating to confidential
16 communications to news reporters).

17 (4) 42 Pa.C.S. § 5943 (relating to confidential
18 communications to clergymen).

19 (5) 42 Pa.C.S. § 5944 (relating to confidential
20 communications to psychiatrists or licensed psychologists).

21 (6) 42 Pa.C.S. § 5945 (relating to confidential
22 communications to school personnel).

23 (7) 42 Pa.C.S. § 5945.1 (relating to confidential
24 communications with sexual assault counselors).

25 (8) 42 Pa.C.S. § 5945.2 (relating to confidential
26 communications to crime stopper or similar anticrime
27 program).

28 § 567. Cost of providing interpreter.

29 An interpreter appointed in accordance with this subchapter
30 is entitled to a reasonable fee for interpreter services and

1 shall be reimbursed for actual and reasonable expenses by the
2 agency conducting the administrative proceeding.

3 § 568. Funding.

4 Except as provided in section 567 (relating to cost of
5 providing interpreter), the General Assembly shall appropriate
6 to the department such sums as may be necessary to establish a
7 program to facilitate the use of interpreters and otherwise
8 fulfill the provisions of this subchapter. Implementation of
9 this section is contingent upon the availability of appropriated
10 funds to carry out the purposes of this section.

11 SUBCHAPTER D

12 ADMINISTRATIVE PROCEEDING INTERPRETERS

13 FOR PERSONS WHO ARE DEAF

14 Sec.

15 581. Scope of subchapter.

16 582. Duties of department.

17 583. Appointment of interpreter.

18 584. Replacement of interpreter.

19 585. Oath.

20 586. Confidential communications in presence of interpreter.

21 587. Cost of providing interpreter.

22 588. Funding.

23 § 581. Scope of subchapter.

24 (a) Commonwealth agencies.--Except as provided in subsection

25 (b), this subchapter applies to all Commonwealth agencies.

26 (b) Exception.--This subchapter does not apply to:

27 (1) Proceedings before the Department of Revenue, the
28 Department of the Auditor General or the Board of Finance and
29 Revenue, involving the original settlement, assessment or
30 determination or resettlement, reassessment or

1 redetermination, review or refund of taxes, interest or
2 payments made into the State Treasury.

3 (2) Proceedings before the Secretary of the Commonwealth
4 under the act of June 3, 1937 (P.L.1333, No.320), known as
5 the Pennsylvania Election Code.

6 (3) Proceedings before the Department of Transportation
7 involving matters reviewable under 42 Pa.C.S. § 933 (relating
8 to appeals from government agencies).

9 (4) Proceedings before the State System of Higher
10 Education involving student discipline.

11 (c) Local agencies.--This subchapter applies to all local
12 agencies.

13 § 582. Duties of department.

14 (a) Interpreter program.--The department shall establish a
15 program to appoint and use certified interpreters in
16 administrative proceedings that is consistent with the program
17 established by the Administrative Office of Pennsylvania Courts
18 pursuant to 42 Pa.C.S. Ch. 44 (relating to court interpreters).
19 To certify interpreters, the department shall establish a
20 program which may include:

21 (1) establishing and administering a comprehensive
22 testing and certification program for interpreters;

23 (2) establishing and adopting standards of proficiency,
24 ~~written and oral, in English and the language to be~~ <—
25 ~~interpreted,~~ including, but not limited to, certification by
26 the Court Administrator of Pennsylvania as provided in 42
27 Pa.C.S. Ch. 44 and certification by the Registry for
28 Interpreters for the Deaf or similar registry;

29 (3) conducting periodic examinations to ensure the
30 availability of certified interpreters;

1 (4) prescribing, determining and certifying the
2 qualifications of persons who may serve as certified
3 interpreters ~~for persons with limited English proficiency;~~ <—

4 (5) charging reasonable fees, as deemed necessary, for
5 testing and certification;

6 (6) reciprocity of certification for interpreters from
7 other jurisdictions provided that in the judgment of the
8 ~~Court Administrator of Pennsylvania~~ DEPARTMENT, the criteria <—
9 for certification in the foreign jurisdiction is as least as
10 stringent as that established by THE DEPARTMENT OR the Court <—
11 Administrator of Pennsylvania;

12 (7) providing for the audio recording of testimony that
13 is the subject of interpretation; and

14 (8) providing a continuing education requirement for
15 interpreters.

16 (b) List of certified interpreters.--The department shall
17 compile, maintain and disseminate a current list of interpreters
18 certified by the department to the agencies through any means
19 deemed appropriate by the department, including, but not limited
20 to, a written directory and publication on the official World
21 Wide Web site of the department.

22 (c) Guidelines for selection of otherwise qualified
23 interpreters.--The department shall provide guidelines to the
24 agencies for the selection and use of otherwise qualified
25 interpreters in order to ensure that the highest standards of
26 accuracy are maintained in all administrative proceedings
27 subject to this subchapter.

28 (d) Fee schedule.--The department shall prescribe, subject
29 to periodic review, a schedule of reasonable fees for services
30 rendered by certified interpreters and otherwise qualified

1 interpreters.

2 (e) Standards of professional conduct.--

3 (1) The department shall establish and adopt standards
4 for a code of professional conduct for administrative
5 proceeding interpreters for persons who are deaf.

6 (2) The department shall establish, administer or
7 recommend a process to review and respond to allegations of
8 violations of the code of professional conduct for
9 administrative proceeding interpreters for persons who are
10 deaf, including, but not limited to, decertification and
11 other disciplinary measures.

12 (f) Certification by courts.--Any interpreter certified by
13 the Administrative Office of Pennsylvania Courts pursuant to 42
14 Pa.C.S. Ch. 44 shall be deemed certified pursuant to this
15 chapter.

16 § 583. Appointment of interpreter.

17 (a) Appointment of certified interpreter.--Upon request, an
18 administrative law judge shall appoint a certified interpreter
19 unless the certified interpreter is unavailable as provided in
20 subsection (b).

21 (b) Appointment of otherwise qualified interpreter when
22 certified interpreter is unavailable.--

23 (1) An otherwise qualified interpreter shall be
24 appointed by an administrative law judge if a good faith
25 effort was made to obtain a certified interpreter and a
26 certified interpreter was not reasonably available, as
27 determined by the administrative law judge.

28 (2) Prior to the appointment of an otherwise qualified
29 interpreter, the administrative law judge shall state on the
30 record that to the best of the knowledge of the

1 administrative law judge, the otherwise qualified
2 interpreter:

3 (i) is readily able to interpret;

4 (ii) is certified by the National Association for
5 the Deaf, the Registry of Interpreters for the Deaf or
6 similar registry, to the best of the knowledge of the
7 administrative law judge; and

8 (iii) has read, understands and agrees to abide by
9 the code of professional conduct for administrative
10 proceeding interpreters for persons who are deaf, as
11 established by the department.

12 (c) Additional interpreters.--After consideration of the
13 length of the administrative proceeding, the special needs of
14 the person who is deaf, and the number of persons involved who
15 are deaf, the administrative law judge may appoint, as provided
16 in subsections (a) and (b), an additional interpreter or provide
17 for additional interpretation in a manner deemed appropriate by
18 the administrative law judge.

19 § 584. Replacement of interpreter.

20 An administrative law judge shall dismiss the interpreter and
21 obtain the services of another interpreter in accordance with
22 this subchapter if the interpreter:

23 (1) Fails to follow the standards prescribed by law or
24 by the code of professional conduct for administrative
25 proceeding interpreters for persons who are deaf.

26 (2) Is unable to effectively communicate with the
27 administrative law judge or person who is deaf, including
28 where the interpreter self-reports such inability.

29 § 585. Oath.

30 Before the commencement of interpreter duties, an interpreter

1 appointed under this subchapter shall take an oath or make an
2 affirmation on the record that the interpreter will make a true
3 interpretation to the person who is deaf in the manner that the
4 person who is deaf understands and that the interpreter will
5 repeat the statements of the person who is deaf to the court in
6 the spoken English language to the best of the interpreter's
7 skill and judgment and in accordance with the code of
8 professional conduct for administrative proceeding interpreters
9 for persons who are deaf.

10 § 586. Confidential communications in presence of interpreter.

11 An interpreter appointed under this subchapter may not be
12 compelled to testify, in any judicial proceeding or
13 administrative proceeding, to statements made by the person who
14 is deaf and interpreted by the interpreter when the person who
15 is deaf is engaged in a confidential communication as provided
16 by any statute or general rule, including, but not limited to:

17 (1) 42 Pa.C.S. § 5916 (relating to confidential
18 communications to attorney).

19 (2) 42 Pa.C.S. § 5928 (relating to confidential
20 communications to attorney).

21 (3) 42 Pa.C.S. § 5942 (relating to confidential
22 communications to news reporters).

23 (4) 42 Pa.C.S. § 5943 (relating to confidential
24 communications to clergymen).

25 (5) 42 Pa.C.S. § 5944 (relating to confidential
26 communications to psychiatrists or licensed psychologists).

27 (6) 42 Pa.C.S. § 5945 (relating to confidential
28 communications to school personnel).

29 (7) 42 Pa.C.S. § 5945.1 (relating to confidential
30 communications with sexual assault counselors).

1 It is hereby declared to be the policy of this Commonwealth
2 to secure the rights, constitutional and otherwise, of persons
3 who because of a non-English speaking cultural background or who
4 because of an impairment of hearing or speech are unable to
5 understand or communicate adequately in the English language
6 when they appear in court or are involved in judicial
7 proceedings. It is the intent of this chapter to provide for the
8 certification, appointment and use of interpreters to secure the
9 rights of persons with limited English proficiency and persons
10 who are deaf or hearing impaired in all judicial proceedings.

11 § 4402. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Administrative proceeding." Any proceeding other than a
16 judicial proceeding, the outcome of which is required to be
17 based on a record or documentation prescribed by law or in which
18 law or regulation is particularized in application to
19 individuals. The term includes an appeal as defined in 2 Pa.C.S.
20 § 101 (relating to definitions).

21 "Certified interpreter." A person who:

22 (1) is readily able to interpret; and

23 (2) is certified by the Court Administrator in
24 accordance with either Subchapter B (relating to court
25 interpreters for persons with limited English proficiency) or
26 Subchapter C (relating to court interpreters for persons who
27 are deaf).

28 "Court Administrator." The Court Administrator of
29 Pennsylvania.

30 "Deaf." An impairment of hearing or speech which creates an

1 inability to understand or communicate the spoken English
2 language.

3 "Direct victim." A direct victim as defined in section 103
4 of the act of November 24, 1998 (P.L.882, No.111), known as the
5 Crime Victims Act.

6 "Immediate family member." A spouse, parent or child.

7 "Interpret." Either one of the following:

8 (1) For purposes of Subchapter B (relating to court
9 interpreters for persons with limited English proficiency),
10 to convey spoken and written English into the language of the
11 person with limited English proficiency and to convey oral
12 and written statements by the person with limited English
13 proficiency into English.

14 (2) For purposes of Subchapter C (relating to court
15 interpreters for persons who are deaf), to convey spoken
16 English in a manner understood by the person who is deaf
17 through, but not limited to, American Sign Language and
18 transliteration or the use of Computer-Aided Real-Time
19 Captioning (CART) or similar procedure, and to convey the
20 communications made by the person who is deaf into spoken
21 English.

22 "Interpreter." Includes both a certified interpreter and an
23 otherwise qualified interpreter.

24 "Judicial proceeding." An action, appeal or proceeding in
25 any court of this Commonwealth.

26 "Limited ability to speak or understand English." The
27 ability to speak exclusively or primarily a language other than
28 English and the inability to sufficiently speak or understand
29 English.

30 "Otherwise qualified interpreter." A person who:

1 (1) For purposes of Subchapter B (relating to court
2 interpreters for persons with limited English proficiency):

3 (i) is readily able to interpret; and

4 (ii) has read, understands and agrees to abide by
5 the code of professional conduct for court interpreters
6 for persons with limited English proficiency as
7 established by the Court Administrator in accordance with
8 Subchapter B.

9 (2) For purposes of Subchapter C (relating to court
10 interpreters for persons who are deaf):

11 (i) is readily able to interpret;

12 (ii) is certified by the National Association of the
13 Deaf, the Registry of Interpreters for the Deaf or
14 similar registry; and

15 (iii) has read, understands and agrees to abide by
16 the code of professional conduct for court interpreters
17 for persons who are deaf as established by the Court
18 Administrator in accordance with Subchapter C.

19 "Person who is deaf." A principal party in interest or a
20 witness who is deaf.

21 "Person with limited English proficiency." A principal party
22 in interest or a witness, who has limited ability to speak or
23 understand English.

24 "Presiding judicial officer." Includes a judicial officer as
25 defined in section 102 (relating to definitions).

26 "Principal party in interest." A person involved in a
27 judicial proceeding who is a named party, defendant or direct
28 victim in a criminal proceeding or proceeding pursuant to 42
29 Pa.C.S. Ch. 63 (relating to juvenile matters) will be bound by
30 the decision or action or is foreclosed from pursuing that

1 person's rights by the decision or action which may be taken in
2 the judicial proceeding.

3 "Transliteration." To convey spoken or written English in an
4 English-based sign system and the process of conveying an
5 English-based sign system in spoken or written English.

6 "Witness." A person who testifies in a judicial proceeding.

7 SUBCHAPTER B

8 COURT INTERPRETERS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY
9 Sec.

10 4411. Duties of Court Administrator.

11 4412. Appointment of interpreter.

12 4413. Replacement of interpreter.

13 4414. Oath.

14 4415. Confidential communications in presence of interpreter.

15 4416. Cost of providing interpreter.

16 4417. Funding.

17 § 4411. Duties of Court Administrator.

18 (a) Interpreter program.--The Court Administrator may
19 establish a program to appoint and use certified interpreters in
20 judicial proceedings. The program established by the Court
21 Administrator to certify interpreters may include:

22 (1) establishing and administering a comprehensive
23 testing and certification program for interpreters;

24 (2) establishing and adopting standards of proficiency,
25 written and oral, in English and the language to be
26 interpreted;

27 (3) conducting periodic examinations to ensure the
28 availability of certified interpreters;

29 (4) prescribing, determining and certifying the
30 qualifications of persons who may serve as certified

1 interpreters for persons with limited English proficiency;

2 (5) charging reasonable fees as deemed necessary for
3 testing and certification;

4 (6) reciprocity of certification for interpreters from
5 other jurisdictions provided that in the judgment of the
6 Court Administrator, the criteria for certification in the
7 foreign jurisdiction is at least as stringent as that
8 established by the Court Administrator;

9 (7) providing for the audio recording of testimony that
10 is the subject of interpretation; and

11 (8) providing a continuing education requirement for
12 interpreters.

13 (b) List of certified interpreters.--The Court Administrator
14 shall compile, maintain and disseminate a current list of
15 interpreters certified by the Court Administrator for the courts
16 through any means deemed appropriate by the Court Administrator,
17 including, but not limited to, a written directory, which shall
18 be maintained on file with the office of the clerk of courts in
19 each judicial district, and through publication on the official
20 World Wide Web site of the Administrative Office.

21 (c) Guidelines for court selection of otherwise qualified
22 interpreters.--The Court Administrator shall provide guidelines
23 to the courts for the selection and use of otherwise qualified
24 interpreters in order to ensure that the highest standards of
25 accuracy are maintained in all judicial proceedings subject to
26 the provisions of this subchapter.

27 (d) Fee schedule.--The Court Administrator shall prescribe,
28 subject to periodic review, a schedule of reasonable fees for
29 services rendered by certified interpreters and otherwise
30 qualified interpreters used in judicial proceedings.

(e) Standards of professional conduct.--

(1) The Court Administrator shall establish and adopt standards for a code of professional conduct for court interpreters for persons with limited English proficiency.

(2) The Court Administrator shall establish, administer or recommend a process to review and respond to allegations of violations of the code of professional conduct for court interpreters for persons with limited English proficiency, including, but not limited to, decertification and other disciplinary measures.

§ 4412. Appointment of interpreter.

(a) Appointment of certified interpreter.--Upon request or sua sponte, if the presiding judicial officer determines that a principal party in interest has a limited ability to speak or understand English, then a certified interpreter shall be appointed, unless the certified interpreter is unavailable as provided in subsection (b).

(b) Appointment of otherwise qualified interpreter.--

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if a good faith effort was made to obtain a certified interpreter and a certified interpreter was not reasonably available, as determined by the presiding judicial officer.

(2) Prior to the appointment of the otherwise qualified interpreter, the presiding judicial officer, pursuant to general rule, shall state on the record that a certified interpreter is not available and that the otherwise qualified interpreter:

(i) is readily able to interpret; and

(ii) has read, understands and agrees to abide by

1 the code of professional conduct for court interpreters
2 for persons with limited English proficiency, as
3 established by the Court Administrator.

4 (c) Additional interpreter.--After consideration of the
5 length of the judicial proceeding and the number of persons with
6 limited English proficiency involved, the presiding judicial
7 officer may appoint, as provided in subsections (a) and (b), an
8 additional interpreter or provide for additional interpretation
9 in a manner deemed appropriate by the presiding judicial
10 officer.

11 (d) Immediate family.--The presiding judicial officer may
12 appoint, as provided in subsections (a) and (b), an interpreter
13 or provide for additional interpretation, as provided in
14 subsection (c), for an immediate family member of a principal
15 party in interest.

16 § 4413. Replacement of interpreter.

17 Pursuant to general rule, the presiding judicial officer
18 shall dismiss the interpreter and obtain the services of another
19 interpreter in accordance with this subchapter, if the
20 interpreter:

21 (1) Fails to follow the standards prescribed by law or
22 by the code of professional conduct for court interpreters
23 for persons with limited English proficiency.

24 (2) Is unable to effectively communicate with the
25 presiding judicial officer or the person with limited English
26 proficiency, including where the interpreter self-reports
27 such inability.

28 § 4414. Oath.

29 Before commencement of interpreter duties, an interpreter
30 appointed under this subchapter shall take an oath or make an

1 affirmation on the record that the interpreter will make a true
2 interpretation to the person with limited English proficiency in
3 the language which the person with limited English proficiency
4 understands and that the interpreter will repeat the statements
5 of the person with limited English proficiency to the court in
6 English to the best of the interpreter's skill and judgment and
7 in accordance with the code of professional conduct for court
8 interpreters for persons with limited English proficiency.

9 § 4415. Confidential communications in presence of interpreter.

10 An interpreter appointed under this subchapter shall not be
11 compelled to testify in any judicial proceeding or
12 administrative proceeding to any statements made by the person
13 with limited English proficiency and interpreted by the
14 interpreter when the person with limited English proficiency is
15 engaged in a confidential communication as provided by any
16 statute or general rule, including, but not limited to:

17 (1) Section 5916 (relating to confidential
18 communications to attorney).

19 (2) Section 5928 (relating to confidential
20 communications to attorney).

21 (3) Section 5942 (relating to confidential
22 communications to news reporters).

23 (4) Section 5943 (relating to confidential
24 communications to clergymen).

25 (5) Section 5944 (relating to confidential
26 communications to psychiatrists or licensed psychologists).

27 (6) Section 5945 (relating to confidential
28 communications to school personnel).

29 (7) Section 5945.1 (relating to confidential
30 communications with sexual assault counselors).

(8) Section 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).

§ 4416. Cost of providing interpreter.

(a) General rule.--An interpreter appointed in accordance with this subchapter is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses as provided in this section.

(b) Principal party in interest.--If the person with limited English proficiency is a defendant, party or a direct victim in a judicial proceeding for a criminal matter or juvenile proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), then the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for the criminal matter.

(c) Witness.--If the person with limited English proficiency is compelled to appear as a witness in a judicial proceeding for a criminal matter, then the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for the criminal matter.

(d) Payment determination.--Except as provided in subsections (b) and (c), disposition of all or part of the cost of providing interpreter services shall be in the discretion of the presiding judicial officer unless the principal party in interest is indigent. If the principal party in interest is indigent, then the cost of providing interpreter services shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding. The presiding

1 judicial officer may order reimbursement to the county for its
2 responsibilities under this section.

3 § 4417. Funding.

4 Except as provided in section 4416 (relating to cost of
5 providing interpreter), the General Assembly shall appropriate
6 to the Court Administrator such sums as may be necessary to
7 establish a program to facilitate the use of interpreters and
8 otherwise fulfill the provisions of this subchapter.
9 Implementation of this section is contingent upon the
10 availability of appropriated funds to carry out the purposes of
11 this section.

12 SUBCHAPTER C

13 COURT INTERPRETERS FOR PERSONS WHO ARE DEAF

14 Sec.

15 4431. Duties of Court Administrator.

16 4432. Appointment of interpreter.

17 4433. Replacement of interpreter.

18 4434. Interrogation.

19 4435. Oath.

20 4436. Confidential communications in presence of interpreter.

21 4437. Cost of providing interpreter.

22 4438. Funding.

23 § 4431. Duties of Court Administrator.

24 (a) Interpreter program.--The Court Administrator may
25 establish a program to appoint and use certified interpreters in
26 judicial proceedings. To certify interpreters, the Court
27 Administrator shall either:

28 (1) establish a program, which shall include:

29 (i) establishing and administering a comprehensive
30 testing and certification program for interpreters;

1 (ii) establishing and adopting standards of
2 proficiency, including, but not limited to, certification
3 by the Registry of Interpreters for the Deaf or similar
4 registry;

5 (iii) conducting periodic examinations to ensure the
6 availability of certified interpreters;

7 (iv) prescribing, determining and certifying the
8 qualifications of persons who may serve as certified
9 interpreters; and

10 (v) charging reasonable fees as deemed necessary for
11 testing and certification; or

12 (2) establish and support a certification program by any
13 means as deemed appropriate by the Court Administrator.

14 (b) List of certified interpreters.--The Court Administrator
15 shall compile, maintain and disseminate a current list of
16 interpreters certified by the Court Administrator for the courts
17 through any means deemed appropriate by the Court Administrator,
18 including, but not limited to, a written directory, which shall
19 be maintained on file with the office of the clerk of courts in
20 each judicial district, and through publication on the official
21 World Wide Web site of the Administrative Office.

22 (c) Guidelines for court selection of otherwise qualified
23 interpreters.--The Court Administrator shall provide guidelines
24 to the courts for the selection and use of otherwise qualified
25 interpreters in order to ensure that the highest standards of
26 accuracy are maintained in all judicial proceedings subject to
27 the provisions of this subchapter.

28 (d) Fee schedule.--The Court Administrator shall prescribe,
29 subject to periodic review, a schedule of reasonable fees for
30 services rendered by certified interpreters and otherwise

1 qualified interpreters used in judicial proceedings.

2 (e) Standards of professional conduct.--

3 (1) The Court Administrator shall establish and adopt
4 standards for a code of professional conduct for court
5 interpreters for persons who are deaf.

6 (2) The Court Administrator shall establish, administer
7 or recommend a process to review and respond to allegations
8 of violations of the code of professional conduct for court
9 interpreters of persons who are deaf, including, but not
10 limited to, decertification and other disciplinary measures.

11 § 4432. Appointment of interpreter.

12 (a) Appointment of certified interpreter.--Upon request or
13 sua sponte, if the presiding judicial officer determines that a
14 principal party in interest is deaf, then a certified
15 interpreter shall be appointed, unless the certified interpreter
16 is unavailable as provided in subsection (b).

17 (b) Appointment of otherwise qualified interpreter when
18 certified interpreter is unavailable.--

19 (1) An otherwise qualified interpreter shall be
20 appointed by the presiding judicial officer if a good faith
21 effort was made to obtain a certified interpreter and a
22 certified interpreter was not reasonably available, as
23 determined by the presiding judicial officer.

24 (2) Prior to the appointment of the otherwise qualified
25 interpreter, the presiding judicial officer, pursuant to
26 general rule, shall state on the record that a certified
27 interpreter is not available and that the otherwise qualified
28 interpreter:

29 (i) is readily able to interpret;

30 (ii) is certified by the National Association of the

Deaf, the Registry of Interpreters for the Deaf or similar registry to the best of the knowledge of the presiding judicial officer; and

(iii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons who are deaf, as established by the Court Administrator.

(c) Additional interpreter.--After consideration of the length of the judicial proceeding, the special needs of the person who is deaf, and the number of persons involved who are deaf, the presiding judicial officer may appoint, as provided in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer.

(d) Immediate family.--The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

§ 4433. Replacement of interpreter.

Pursuant to general rule, the presiding judicial officer shall dismiss the interpreter and obtain the services of another interpreter in accordance with this subchapter, if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of professional conduct for court interpreters for persons who are deaf.

(2) Is unable to effectively communicate with the presiding judicial officer or the person who is deaf, including where the interpreter self-reports such inability.

1 § 4434. Interrogation.

2 Upon the arrest of any person who is deaf and prior to
3 interrogation the arresting officer shall make available to the
4 person who is deaf an interpreter who shall be present with the
5 person who is deaf throughout the interrogation.

6 § 4435. Oath.

7 Before commencement of interpreter duties, an interpreter
8 appointed under this subchapter shall take an oath or make an
9 affirmation on the record that the interpreter will make a true
10 interpretation to the person who is deaf in a manner that the
11 person who is deaf understands and that the interpreter will
12 repeat the statements of the person who is deaf to the court in
13 English to the best of the interpreter's skill and judgment and
14 in accordance with the code of professional conduct for court
15 interpreters for persons who are deaf.

16 § 4436. Confidential communications in presence of interpreter.

17 An interpreter appointed under this subchapter shall not be
18 compelled to testify in any judicial proceeding or
19 administrative proceeding, to any statements made by the person
20 who is deaf and interpreted by the interpreter when the person
21 who is deaf is engaged in a confidential communication as
22 provided by any statute or general rule, including, but not
23 limited to:

24 (1) Section 5916 (relating to confidential
25 communications to attorney).

26 (2) Section 5928 (relating to confidential
27 communications to attorney).

28 (3) Section 5942 (relating to confidential
29 communications to news reporters).

30 (4) Section 5943 (relating to confidential

1 communications to clergymen).

2 (5) Section 5944 (relating to confidential
3 communications to psychiatrists or licensed psychologists).

4 (6) Section 5945 (relating to confidential communications
5 to school personnel).

6 (7) Section 5945.1 (relating to confidential
7 communications with sexual assault counselors).

8 (8) Section 5945.2 (relating to confidential
9 communications to crime stopper or similar anticrime
10 program).

11 § 4437. Cost of providing interpreter.

12 (a) General rule.--Except as provided by general rule and in
13 subsection (b), an interpreter appointed in accordance with this
14 subchapter is entitled to a reasonable fee for the services of
15 the interpreter and shall be reimbursed for actual and
16 reasonable expenses by the county that has jurisdiction over the
17 judicial proceeding.

18 (b) Payment determination of certain costs.--Disposition of
19 all or part of the cost of providing an interpreter appointed in
20 accordance with section 4433(d) (relating to appointment of
21 interpreter) shall be in the discretion of the court that has
22 jurisdiction over the judicial proceeding. In no event shall the
23 cost of providing interpreter services be the responsibility of
24 the person who is deaf. If the principal party in interest is
25 indigent, then the cost of providing interpreter services shall
26 be the responsibility of the county of the court that has
27 jurisdiction over the judicial proceeding. The presiding
28 judicial officer may order reimbursement to the county for its
29 responsibilities under this subchapter.

30 § 4438. Funding.

1 Except as provided in section 4437 (relating to cost of
2 providing interpreter), the General Assembly shall appropriate
3 to the Court Administrator such sums as may be necessary to
4 establish a program to facilitate the use of interpreters and
5 otherwise fulfill the provisions of this subchapter.
6 Implementation of this section is contingent upon the
7 availability of appropriated funds to carry out the purposes of
8 this section.

9 Section 5. Sections 7103 and 8701 of Title 42 are repealed.

10 Section 6. This act shall take effect in 60 days.